

MEETING SUMMARY

NACEPT Superfund Subcommittee
March 10 - 12, 2003
Phoenix Pointe Hilton Squaw Peak Resort
Phoenix, Arizona



Prepared by Meridian Institute
April, 2003

NACEPT Superfund Subcommittee

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Phoenix, Arizona

The NACEPT Superfund Subcommittee held its fourth meeting March 10-12, 2003 in Phoenix, AZ. This document summarizes discussion topics and key decisions made during the meeting. The meeting was open to the public and audio recorded. Interested individuals and members of the press were present as observers. The Subcommittee's agenda designated several opportunities for public comment as summarized in the appropriate sections of this document. A written transcript was prepared and is available through the Environmental Protection Agency's (EPA) Docket #SFUND-2002-0005. Angelo Carasea, the Designated Federal Officer (DFO), is the primary point of contact for all public and press inquiries.

The objectives of the March 2003 meeting were to:

- Provide an opportunity for the Site Types and Cleanup Programs Work Groups to report on their process and status of their deliberations.
- Engage the full Subcommittee in discussions regarding preliminary conclusions, policy options and recommendations developed by the Work Groups.
- Provide input from the state of Arizona and EPA, Region 9 regarding experience relevant to the Subcommittee's Charge.
- Provide input from community members with experience in the state and federal cleanup programs.
- Determine the Work Groups and the focus of activities between the March 2003 and June 2003 plenary meetings.
- Review the Subcommittee schedule and determine a path forward.
- Provide an opportunity for public comment.
- Provide Subcommittee Members an opportunity to visit a large complex mining site being addressed through the State cleanup program.

Monday, March 10, 2003, 2:00 p.m. – 6:00 p.m.

Dr. Raymond Loehr, Chairman of the Subcommittee, opened the meeting and presented welcoming remarks. He introduced Angelo Carasea, the DFO for the Subcommittee and John Ehrmann, the lead facilitator for the group, from Meridian Institute. Dr. Loehr summarized the Subcommittee's charge, its activity since the third meeting and the goals for the fourth meeting. The Introductory Statement was available as a handout and is included in Attachment A. Dr. Loehr asked each Subcommittee Member to briefly introduce him or herself.

Agenda Review

John Ehrmann, Meridian Institute facilitator, reviewed the progress to date, discussed the status of key work group activities and explained the agenda for the meeting.

Opening Remarks

Terry Goddard, Attorney General for the State of Arizona, was introduced by Subcommittee member Jim Derouin. Mr. Goddard offered insights with regard to the Subcommittee based on his extensive experience as Attorney General and Mayor of Phoenix. The Subcommittee had the opportunity to ask Mr. Goddard questions in follow-up to his presentation. Topics addressed in the presentation and discussion included:

- Arizona's State Hazardous Waste Program
- Local involvement in cleanup decision-making
- Redevelopment of sites
- Financial assurances
- The manner in which Arizona appropriates its state hazardous waste tax funds.

Work Group Presentations

Representatives from both the Site Types and Cleanup Programs Work Groups presented a summary of their research and deliberations to date. Copies of the PowerPoint Presentations from both groups were handed out and are included in Attachment B.

Site Types Work Group

Molly Mayo summarized the activity of the work group since the January Subcommittee meeting. Members of the work group met in Dallas on January 29th and 30th and held several conference calls and small group calls to advance their deliberations. Draft documents summarizing policy options developed by the work group were circulated to Subcommittee members for review prior to the meeting. Representatives of the work group presented the outcomes of several sub-work group level efforts to date. The following topics were addressed:

- NPL Listing
- The HRS
- Funding Prioritization
- Mega Sites
- Overarching Comment

Cleanup Programs Work Group

Elizabeth McManus summarized the activity of the work group since the January Subcommittee meeting. Members of the work group met in Washington D.C. on February 11th and 12th and participated in conference calls and small group activities to advance their deliberations. Summaries and conclusions regarding State programs were developed by the work group and circulated to Subcommittee members for review and consideration. Steve Elbert led the PowerPoint presentation. The following topics were addressed:

- Summary of Federal Programs
- Findings from analyses of State Programs
- Funding and Efficiencies

Following the presentations, the group discussed the variety of issues that had been raised. The Chair asked the Subcommittee members to consider the ideas that had been introduced in the presentations and come prepared to deliberate the following day.

Public Comment:

Members of the public were invited to comment on their perspectives and concerns regarding Superfund and the work of the Subcommittee. Dan Randolph from the Mineral Policy Center offered remarks. His testimony is included in the meeting transcript.

Tuesday, March 11, 2003

Miscellaneous Business

Wilma Subra and Ed Lorenz reported on the Technical Advisory Grant Recipient Workshop that was held in Albuquerque, New Mexico, Feb. 28 – March 1. They summarized the briefing they provided to the group and the feedback they received. The primary message received was the recommendation of an increase in funding of the Superfund Program from the current level to a level that will be sufficient to fully fund the Program. Additional comments and recommendations were summarized in a handout included in Attachment B.

Barry Breen provided a report from the Environmental Financing Advisory Board (EFAB) meeting held in Washington, D.C. on March 4. He summarized the feedback and suggestions provided by the EFAB regarding 1) opportunities for cross work between the two groups and 2) the (environmental finance) needs of the EPA land protection programs. Topics the EFAB is currently address that may overlap with the NACEPT Subcommittee include: tax increment financing, how to help states meet their cost-share, and assessing whether there is a value in helping to make capital markets work more efficiently through standardized terms in financial instruments.

John Ehrmann reviewed the agenda for the day. During the first half of the day, the Subcommittee would take the work group issues raised the previous day one at a time to discuss opinions, recommendations and next steps.

Work Group Issues Discussion

The Subcommittee members went through the issues raised by both of the work groups to discuss the draft recommendations, policy issues and driving questions.

Site Types Work Group Discussions

NPL Screening and Coordinating Committee Discussion

Key Discussion Questions:

- Do you support moving forward the work group's consensus on ways to improve early screening?
- Can these ideas be combined with the ongoing evaluation of a coordinating committee?
- What are your views on the two NPL scenarios?
Should sites on the NPL compete for funding (Scenario 1)? or
Should sites compete to get on the NPL (Scenario 2)?
Which scenario should be carried forward or should both be evaluated further?

HRS Discussion

Questions to lead discussion:

- Does the Subcommittee support capturing "observations" on the HRS in its report to EPA?
- Is it worth pursuing a more detailed analysis of the HRS?
- What additional analysis or evaluation on the HRS is needed short/long-term to support Subcommittee deliberations?

Funding Prioritization

Questions to lead discussion:

- Does the Subcommittee want to recommend a system of funding prioritization for sites on the NPL?
- Is the current system a good place to start?
- What additional evaluation and analysis of funding prioritization criteria is needed?

Arizona and Region 9 Cleanup Programs Panel

Shannon Davis, Director of the Waste Programs Division of the Arizona Department of Environmental Quality, moderated a panel of Regional, State and local representatives who addressed their experiences with the Arizona state program and the integration of federal and state cleanup programs. Members of the Panel included the following individuals:

- **Keith Takata**, Superfund Director, Region IX, EPA
- **Patrick Cunningham**, Deputy Director, ADEQ
- **Philip McNeely**, Manager, Superfund Programs Section, ADEQ
- **Rick Lavis**, Chairman of the Advisory Board for the state's Water Quality Assurance Revolving Fund
- **Karen Masbruch**, Director of Environmental Services, City of Tucson

Discussion followed the presentations. Key points raised during the presentations and the subsequent discussion included the following:

- There is more than enough work out there for all of the different programs – every year, every month, discovering new sites.
- Threat of the NPL is important, but it is not the first option considered in Region 9. Other options are considered first to decide if it is the right tool.
- Extremely recalcitrant PRPs or very complex sites may necessitate a combination of legal authorities.
- There is a need to fit the site to the program. – if you only have a hammer then everything looks like a nail.
- A lot of the other statutes cannot deal with the worst sites.
- It is important to have a strong Superfund Program. It helps the local authorities and creates a back up for the other programs - helps make them strong.
- Appropriators in the Arizona legislature have been using some of the money from the state tax that was supposed to go to the program and using it for other purposes.
- The state has made an effort to enhance community involvement by requiring Community Advisory Boards for each site, which help to determine uses and outcomes for the site.
- The state program is facing a serious lack of funding despite the assumption of “assured” funding when the law was created. As a result, financial assurances are not adequate to address existing cleanup liabilities.
- Federal Superfund programs may address a broader range of contamination than the state program (e.g. aquifer restoration)

Site Specific Example of Cleanup Program Integration

South Indian Bend Wash (SIBW) was featured as a case example of a site cleanup that has integrated federal and state cleanup programs. The site illustrated key issues relevant to the Subcommittee’s deliberations. Shannon Davis, Director of the Waste Programs Division of the Arizona Department of Environmental Quality, moderated the session. Panelists included the following individuals:

- **Karen Gaylord**, Salman, Lewis & Weldon
- **Phil Lagas**, Brown and Caldwell
- **Amanda Stone**, Capacity Development Section, ADEQ
- **Brad Wilde**, M&B Capital Partners, L.L.C.

The purpose of the SIBW collaborative effort was to jointly redevelop the Superfund site. Presenters provided the following information:

- Background on the site
- Details on the history of redevelopment area
- Obstacles
- Future direction

Following the panel discussions, the Subcommittee resumed discussions of work group issues.

Continuation of Work Group Topic Discussions

Mega Sites Discussion

Discussion Questions

- Does the Subcommittee want to pursue further an alternative approach to classifying big complex sites?
- For these sites should we further consider recommendations related to:
 - Subdividing
 - Identifying specific categories of sites and alternative approaches for them
 - Enforcement
- Would it be better to look at the mega site issue in isolation or to fuse it into other related topics (e.g., early screening/Coordinating Committee, funding prioritization)?

Cleanup Programs Work Group Discussions

Discussion of Federal Programs

- Does the Subcommittee support carrying forward the observations on Federal programs in its report to EPA?
- What are your views on the Coordinating Committee? How should this idea be carried forward?
- What additional analyses or evaluations on Federal Programs are needed to support deliberations (short and long-term)?

Discussion of State Programs

- Does the Subcommittee support carrying forward observations on state programs in its report to EPA?
- Should there be further inquiry into state programs' innovations/good practices?
- What additional analyses or evaluations on state programs are needed to support deliberations (short and long-term)?

Discussion of Funding & Efficiencies

- Does the Subcommittee support moving forward with further analysis and evaluation of funding/efficiencies around options 2 or 3?
- What additional analysis or evaluation is needed to support deliberations (short and long-term)?

Public Comment

Members of the public were invited to comment on their perspectives and concerns regarding Superfund and the work of the Subcommittee. Dan Randolph from the Mineral Policy Center offered remarks. His testimony is included in the meeting transcript.

The public meeting adjourned at approximately 5:45 P.M. Members of the public were welcome to stay for the Community Involvement Panel.

Community Involvement Panel

Community Advisory Board members and other public interest perspectives participated in a panel and interactive discussion with the Subcommittee. Panel members included the following individuals:

- **Karen Peters**, East Washington Fluff Community Advisory Board
- **Frank Connell**, Central Camelback Community Advisory Board
- **Dan Randolph**, Mineral Policy Center
- **Terry Davis**, West Van Buren Community Advisory Board
- **Louis Rhodes**, West Van Buren Community Advisory Board

A few of the topics addressed in the presentations and discussion included the following:

- State officials in Arizona have shown that they were willing to integrate the perspectives and interests of the community into their plans for sites.
- When developing relationships with the impacted communities, there is a need for true transparency, clarity of cleanup goals, listening and an indication that the input received will change actions.
- It is important to recognize the difference between restoration and closure and the clear difference in the perception of the two. (e.g. healing the site for the community vs. meeting regulatory requirements)
- There is a need for Technical Advisory Grants (TAGs) to help the communities participate effectively and engage independent experts.
- Cleanup activities can stimulate the economy of an area. The stigma of Superfund is that it has a negative economic impact on communities.
- Personal contact and connection is the most important part of connecting with the community.
- Trust is earned – and takes a lot of time.
- The expenses of involving the community are a drop in the bucket compared to site costs, and it is an investment worth making.

Wednesday, March 12, 2003

Work Group Session – Closed to the Public

John Ehrmann and Ray Loehr reviewed a proposed work plan and path forward for the group. The work of the Subcommittee was organized according to sub-group efforts as follows:

Writing Teams

(2-3 person teams to develop the ideas/sections that have already been developed in draft, discussed by the Subcommittee and ready for preliminary drafting of text for the Final Report).

- ***HRS***
- ***Program Funding and Efficiencies***
- ***Federal Programs***
- ***Prevention Issues***
- ***Characteristics that define large complex sites (Mega sites)***

Creating Teams

(For issues somewhat developed, but needing more discussion among a small group of members)

- *Prioritization of Sites once they are on the NPL*
- *Use of NPL (AKA “NPL Scenarios”)*
- *Subdividing Sites*
- *State Programs*

Work Groups

1) NPL Listing

- Early Screening
- Community Involvement, TAGs and Tribal role
- Coordinating Committee
- RI/FS development for more sites
- Preliminary RI and other special approaches to large complex sites

2) Measuring Program Progress (Lead: Ed Lorenz, Mike Tilchin)

NEXT MEETING

Location: The next plenary meeting of the Subcommittee will be held in New Bedford, MA from June 17-19th. The group agreed that the goal will be to schedule the main meeting for a half day on the 17th, a full day on the 18th and a closed working group session for half the day on the 19th. Additionally, a field trip will be scheduled for the morning of the 17th.

Agenda: The majority of the meeting agenda will focus on review, comment and deliberation over the draft materials for the final report. Additionally, the following topics were suggested by the members:

- Environmental Justice Panel
- Sediment Management Working Group
- Experience of local community from Aniston, AL
- Local perspectives from New Bedford.

Subcommittee members should assume that both evenings (17th and 18th) are likely to include working group meetings and/or panel presentations.

The Subcommittee meeting adjourned at approximately 12:30 p.m.

ATTACHMENTS

A. Meeting Purpose Statement

B. Presentations

1. Report from Technical Assistance Grant Recipients
Workshop in Albuquerque
2. Site Types Work Group Presentation
3. Cleanup Programs Work Group Presentation
4. Keith Takata – Region 9 EPA Presentation

**Introductory Information
NACEPT Superfund Subcommittee
March 10-12, 2003 Meeting**

The Superfund Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) was established in June 2002 for the purpose of assisting EPA in identifying the future direction of the Superfund Program in the context of other federal and state waste and site cleanup programs. Specifically, the Subcommittee will review the relevant documentation and, to the extent possible, provide answers to questions that relate to: a) the role of the NPL, b) mega sites, and c) measuring program performance. The Subcommittee will operate as and be subject to the requirements of a Federal Advisory Committee.

Membership on the committee represents a diversity of interests. Subcommittee members include senior-level decision-makers and experts from: academia, business and industry, community and environmental advocacy groups, state, local and tribal governments, environmental justice, and non-governmental and professional organizations. Dr. Raymond Loehr, Professor of Civil Engineering at the University of Texas in Austin, is the chair of the Subcommittee.

The Subcommittee is working to accomplish its Charge through quarterly Subcommittee meetings and interim Work Group meetings over about an 18-month period. It is anticipated that one or a series of consensus reports will result from the Subcommittee deliberations. However, where consensus cannot be reached, a written discussion of the views of Subcommittee members is to be provided. As appropriate, the Subcommittee may also respond to issues in the form of "consultation," i.e., dialogue, rather than a formal written report.

Interactive discussion and questioning for the purpose of probing an issue and clarifying a point will be encouraged. As such, any material developed by any work group, any presentations by a work group or work group member, or comments made by Subcommittee Members at this and future meetings should neither be interpreted to reflect their current position on the subject under discussion nor their future position as it may evolve over the course of deliberation. Additionally, the comments of a work group or an individual Subcommittee Member should not be interpreted as positions of the Subcommittee or the EPA.

The Subcommittee will deliberate thoroughly before developing consensus findings, conclusions or recommendations. Any report on the opinion of the group will undergo rigorous review by all Subcommittee Members before it is considered final and transmitted to EPA.

Subcommittee Meetings

To-date, the Subcommittee has held three meetings in Washington D.C. (June 17-19, 2002; September 23-24, 2002 and January 7-8, 2003). A summary of the meetings can be obtained via the EPA website at (<http://www.epa.gov/oswer/SFsub.htm>). Highlights from the most recent meeting are included below.

January 2003 Meeting

The NACEPT Superfund Subcommittee held its third meeting January 7 through 8, 2002 in Washington, DC. The meeting was open to the public. The following information provides a brief overview of that meeting.

The main purposes of the meeting included the following:

- Provide an opportunity for each of the three Work Groups to report on the status of their deliberations and engage in discussions with the diverse perspectives on the Subcommittee regarding the direction of assumptions, policy options and information gathering.
- Provide educational information on Tribal issues relevant to the Subcommittee's Charge.
- Provide a briefing from and opportunity for discussion with the EPA Administrator.
- Provide an opportunity for Work Groups to meet face-to-face.
- Review the Subcommittee schedule and determine a path forward; and
- Provide an opportunity for public comment.

As a result of the deliberations during the January 2003 meeting, the Subcommittee agreed to maintain the three work groups established at the September 2002 meeting. The Site Types Work Group was asked to focus on the listing process; the future role of the NPL given the number and types of cleanup sites that are expected; the prioritization of funding for sites once they are listed on the NPL and how to address large, complex sites that may become very costly ("mega" sites). The Cleanup Programs Work Group was asked to focus its efforts on completing its research of other cleanup programs so that the NPL can be considered in the broader context of other cleanup programs. Additionally, they were asked to consider other sources of funding possibilities for increasing efficiencies to Program implementation. The Measuring Program Progress Work Group chose to take a hiatus between the January and March meetings in order to focus the efforts of the group members on the increasing demands of the other two groups. When the Work Group reconvenes, they will continue to provide advice to the Agency on its internal efforts to develop Superfund Program performance measures while developing additional options for program measurements to be considered by the Subcommittee.

Summary of Activity Since Last Meeting

During the period of time between the January 2003 meeting and the March 2003 meeting, the Subcommittee members participated in work group activities via conference calls and face-to-face meetings. Subcommittee members supported the implementation of work group activities by drafting and reviewing summaries of background information, and developing assumptions and policy options for future consideration by the Subcommittee. The results of the work group efforts will be presented and discussed with the full Subcommittee at the March 2003 meeting.

Objectives of the March 10-12 Meeting

The March 10-12, 2003 meeting is intended to accomplish the following objectives:

- Provide an opportunity for the Site Types and Cleanup Programs Work Groups to report on their process and status of their deliberations.
- Engage the full Subcommittee in discussions regarding preliminary conclusions, policy options and recommendations developed by the Work Groups.
- Provide input from the state of Arizona EPA, Region 9 regarding experience relevant to the Subcommittee's Charge.
- Provide input from Community members with experience in the state and federal cleanup programs.
- Determine the Work Groups and the focus of activities between the March 2003 and June 2003 plenary meetings.
- Review the Subcommittee schedule and determine a path forward; and
- Provide an opportunity for public comment.
- Provide Subcommittee Members an opportunity to visit a large complex mining site being addressed through the State cleanup program.

This is an open session for public record. Interested individuals and members of the press have been invited to attend as observers. We will be entertaining questions from the floor during the designated times on the agenda. Angelo Carasea, the Designated Federal Officer, will be available to assist reporters and other interested individuals who would like additional information. His contact information is available on the Roster at the registration table.

Attachment B – Presentations

Attachment B – Presentations available electronically as separate documents:

1. Report from Technical Assistance Grant Recipients Workshop in Albuquerque
2. Site Types Work Group Presentation
3. Cleanup Programs Work Group Presentation
4. Keith Takata – Region 9 EPA Presentation